

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
<p>Caption in Compliance with D.N.J. LBR 9004-1(b)</p> <p>GENOVA BURNS LLC Daniel M. Stolz, Esq. Donald W. Clarke, Esq. dstolz@genovaburns.com dclarke@genovaburns.com 110 Allen Road, Suite 304 Basking Ridge, NJ 07920 Tel: (973) 467-2700 Fax: (973) 467-8126 <i>Proposed Local Counsel to the Official Committee of Talc Claimants</i></p>	<p>BROWN RUDNICK LLP David J. Molton, Esq. Robert J. Stark, Esq. Michael S. Winograd, Esq. Eric R. Goodman, Esq. dmolton@brownrudnick.com rstark@brownrudnick.com mwinograd@brownrudnick.com egoodman@brownrudnick.com Seven Times Square New York, NY 10036 Tel: (212) 209-4800 Fax: (212) 209-4801 and Jeffrey L. Jonas, Esq. Sunni P. Beville, Esq. jjonas@brownrudnick.com sbeville@brownrudnick.com One Financial Center Boston, MA 02111 Tel: (617) 856-8200 Fax: (617) 856-8201 <i>Proposed Co-Counsel for the Official Committee of Talc Claimants</i></p>
<p>MASSEY & GAIL LLP Jonathan S. Massey, Esq. Rachel S. Morse, Esq. jmassey@masseygail.com rmorse@masseygail.com 1000 Maine Ave. SW, Suite 450 Washington, DC 20024 Tel: (202) 652-4511 Fax: (312) 379-0467 <i>Proposed Special Counsel for the Official Committee of Talc Claimants</i></p>	<p>OTTERBOURG P.C. Melanie L. Cyganowski, Esq. Richard G. Haddad, Esq. Adam C. Silverstein, Esq. Jennifer S. Feeney, Esq. David A. Castleman, Esq. mcyganowski@otterbourg.com rhaddad@otterbourg.com asilverstein@otterbourg.com jfeeney@otterbourg.com dcastleman@otterbourg.com 230 Park Avenue New York, NY 10169 Tel: (212) 661-9100 Fax: (212) 682-6104 <i>Proposed Co-Counsel for Official Committee of Talc Claimants</i></p>

In re:

LTL MANAGEMENT LLC,¹

Debtor.

LTL MANAGEMENT LLC,

Plaintiff,

v.

**THOSE PARTIES LISTED ON
APPENDIX A TO COMPLAINT
and JOHN AND JANE
DOES 1-1000,**

Defendants.

Chapter 11

Case No.: 23-12825 (MBK)

Honorable Michael B. Kaplan

Adv. Pro. No. 23-01092 (MBK)

**OBJECTION OF THE OFFICIAL COMMITTEE
OF TALC CLAIMANTS TO DEBTOR'S EXHIBIT LIST**

The Official Committee of Talc Claimants (the “**TCC**” or the “**Committee**”) in the above-captioned case, of LTL Management, LLC (the “**Debtor**” or “**LTL**”), hereby submits this objection (the “**Objection**”) to the Debtor’s Exhibit List [Dkt. 66] (the “**Exhibit List**”) and deposition designations [Dkt. 67] filed in the above-captioned adversary proceeding. In the Exhibit List, the Debtor identifies exhibits it is offering into evidence in connection with the hearing on the Debtor’s *Motion for an Order (I) Declaring That the Automatic Stay Applies or Extends to Certain Actions Non-Debtors, (II) Preliminarily Enjoining Such Actions, and (III)*

¹ The last four digits of the Debtor’s taxpayer identification number are 6622. The Debtor’s address is 501 George Street, New Brunswick, New Jersey 08933.

Granting a Temporary Restraining Order Ex Parte Pending a Hearing on a Preliminary Injunction [Adv. Dkt. 2] (the “**Motion**”).

The TCC objects under Federal Rules of Evidence 408, 401 and 403 to those portions of the transcript of the deposition of Andy Birchfield [Dkt. 67, No. VII] and exhibits 1 and 2 from the deposition of Andy Birchfield [Dkt 66, Exhibits 58 (Birchfield Deposition Exhibit 001 - 9/5/2020 Email from Birchfield to Murdica re: ****Confidential**** with attachment “TALC TERM SHEET (AN-5PM) (9-4-20).docx; and 59 (Birchfield Deposition Exhibit 002 – Confidential Settlement Term Sheet, dated 9/4/2020 5:20 PM)] to the extent that such proffered evidence constitutes offers to compromise a claim, or conduct or statements made during compromise negotiations. FRE 408(a).

It appears that the Debtor is using the aforesaid proffered evidence, as well as testimony from several of its own witnesses, including Eric Haas and James Murdica [Dkt. 67, nos. I and VIII] to try to prove the validity of a disputed claim on this Motion -- namely the Debtor’s good faith and likelihood of success on the merits through what the Debtor unabashedly concedes are prior (from September 2020) settlement negotiations, offers and conduct. As such it is inadmissible under FRE 408.

Additionally, the proffered evidence is inadmissible under FRE 401 (and 403) because the prior settlement negotiations (which long preceded the Debtor’s initial bad faith bankruptcy filing), cannot be compared to the Debtor’s current proposal. As explained by Andy Birchfield [Dkt. 71, Birchfield transcript, at pp. 203-208], the 2020 discussions related to an unaccepted, unsigned draft setting forth an entirely different structure than what is now proposed by the Debtor – most notably, that prior proposed structure (i) presented a voluntary, opt-in proposal (as opposed to the binding plan that the Debtor now proposes to foist upon all victims); (ii) related exclusively to a certain

subtypes of epithelial ovarian cancer (as opposed to the general and generic “gynecological” cancers (i.e., uterine cancer, vaginal cancer, cervical cancer, vulvar cancer for which there is not evidence supporting a causal causation); mesothelioma; and government claims included within the Debtor’s proposal); and (iii) was anticipated being offered to approximately 25,000 victims (as opposed to the large multiple of “claims” that the Debtor now contests would be included in its proposal). As such, any reference to the proffered evidence, whether through testimony of Messrs. Birchfield, Haas, Murdica or others, or through exhibits, is not relevant to any material fact on this motion, *see* FRE 401, and is also excludable under FRE 403, and therefore should not be admitted.

Respectfully submitted,

GENOVA BURNS LLC

Dated: April 20, 2023

By: /s/ Daniel M. Stolz
Daniel M. Stolz, Esq.
Donald W. Clarke, Esq.
110 Allen Road, Suite 304
Basking Ridge, NJ 07920
Tel: 973-467-2700
Fax: 973-467-8126
Email: dstolz@genovaburns.com
dclarke@genovaburns.com

*Proposed Local Counsel to the Official
Committee of Talc Claimants*